

FILED

2008 AUG 12 PM 4:08

CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

ORIGINAL

BY                      DEPUTY

Tammy Hussin (155290)  
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Attorney for Plaintiff

'08 CV 1467 JLS-WMC

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Arlene Wiseman

) Case No.

Plaintiff,

)  
) COMPLAINT FOR VIOLATION  
) OF FEDERAL FAIR DEBT  
) COLLECTION PRACTICES ACT  
) and ROSENTHAL FAIR DEBT  
) COLLECTION PRACTICES ACT

vs.

Pinnacle Financial Group,  
Incorporated  
Defendant.

)  
)  
)

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA"), and the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code § 1788, *et seq.* (hereinafter "RFDCPA"), both of which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices. Ancillary to the claims above, Plaintiff further alleges claims for

1 invasion of privacy arising from intrusion upon seclusion and public disclosure of  
2 private facts.  
3

## 4 II. JURISDICTION

5 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d).  
6

## 7 III. PARTIES

8 3. Plaintiff, Arlene Wiseman ("Plaintiff"), is a natural person residing  
9 in San Diego County, in the state of California, and is a "consumer" as defined by  
10 the FDCPA, 15 U.S.C. § 1692a(3) and is a "debtor" as defined by Cal Civ Code  
11 1788.2(h).  
12

13 4. At all relevant times herein, Defendant, Pinnacle Financial Group,  
14 Incorporated ("Defendant") was an active Minnesota corporation engaged, by use  
15 of the mails and telephone, in the business of collecting a debt from Plaintiff  
16 which qualifies as a "debt," as defined by 15 U.S.C. § 1692a(5), and a "consumer  
17 debt," as defined by Cal Civ Code § 1788.2(f). Defendant regularly attempts to  
18 collect debts alleged to be due another, and therefore is a "debt collector" as  
19 defined by the FDCPA, 15 U.S.C. § 1692a(6), and RFDCPA, Cal Civ Code §  
20 1788.2(c).  
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#### IV. FACTUAL ALLEGATIONS

5. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.

6. Over the past year, Defendant communicated with Plaintiff repeatedly in connection with collection of an alleged debt owed by someone other than Plaintiff, and attempted to harass Plaintiff into paying a debt that did not belong to her in violation of 15 USC § 1692b(1),(2), and (3), 1692c(b), 1692d, and Cal Civ Code § 1788.11(d).

7. On at least one occasion over the past year, Defendant contacted Plaintiff after Defendant was notified that Plaintiff was represented by counsel and that all communications should be directed to Plaintiff's counsel, in violation of 15 USC 1692c(a)(2) and Cal Civ Code 1788.14(c).

8. As a result of the above violations of the FDCPA and RFDCPA, Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and emotional distress, and Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

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2  
3 **COUNT I: VIOLATION OF FAIR DEBT**  
4 **COLLECTION PRACTICES ACT**

5 9. Plaintiff reincorporates by reference all of the preceding paragraphs.

6 **PRAYER FOR RELIEF**  
7

8 WHEREFORE, Plaintiff respectfully prays that judgment be entered  
9 against the Defendant for the following:

- 10 A. Declaratory judgment that Defendant's conduct  
11 violated the FDCPA;  
12 B. Actual damages;  
13 C. Statutory damages;  
14 D. Costs and reasonable attorney's fees; and,  
15 E. For such other and further relief as may be just and proper.  
16  
17

18 **COUNT II: VIOLATION OF ROSENTHAL**  
19 **FAIR DEBT COLLECTION PRACTICES ACT**

20 10. Plaintiff reincorporates by reference all of the preceding paragraphs.

21 11. To the extent that Defendant's actions, counted above, violated the  
22 RFDCPA, those actions were done knowingly and willfully.  
23

24 **PRAYER FOR RELIEF**  
25

26 WHEREFORE, Plaintiff respectfully prays that judgment be entered  
27 against the Defendant for the following:  
28

- A. Declaratory judgment that Defendant's conduct

1 violated the RFDCPA;

2 B. Actual damages;

3 C. Statutory damages for willful and negligent violations;

4 D. Costs and reasonable attorney's fees,

5 E. For such other and further relief as may be just and proper.

6  
7 **PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

8  
9  
10 Respectfully submitted this 31<sup>st</sup> day of July, 2008

11  
12  
13 By: 

14 Tammy Hussin (155290)

15 WEISBERG & MEYERS, LLC

16 6455 Pyrus Pl.

17 Carlsbad, CA 92011

18 760 676 4001

19 866 565 1327 facsimile

20 thussin@AttorneysForConsumers.com

21 Attorney for Plaintiff

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Arlene Wiseman

(b) County of Residence of First Listed Plaintiff San Diego  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Tammy Hussin, Weisberg & Meyers, LLC  
6455 Pyrus Pl. Carlsbad CA 92011 866.775.3666

## DEFENDANTS

Pinnacle Financial Group LLC

County of Residence of First Listed Defendant

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

Attorneys (If Known)

ORIGINAL

08 CV 1467 JLS WMC

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 USC 1692 et seq

Brief description of cause:

violation of Fair Debt Collection Practices Act

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

STAT/ACTUAL/COSTS/FEE

CHECK YES only if demanded in complaint:

JURY DEMAND:

☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

07/31/2008

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # 153957

AMOUNT \$350

APPLYING IFP

JUDGE

MAG. JUDGE

**UNITED STATES  
DISTRICT COURT**  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION

**# 153957 - BH**

**August 12, 2008  
16:06:06**

**Civ Fil Non-Pris**

USAO #.: 08CV1467 CIVIL FILING  
Judge.: JANIS L. SAMMARTINO  
Amount.: \$350.00 CK  
Check#.: BC#1172

**Total-> \$350.00**

**FROM: WISEMAN V. PINNACLE FINANCIAL  
CIVIL FILING**